

STATEMENT OF EMERGENCY

201 KAR 35:025E

This emergency administrative regulation amendment is being promulgated to address an imminent threat to public health, safety, or welfare caused by the shortage of qualified counselors available to treat individuals during the current substance abuse crisis. Further, this emergency amendment is being promulgated to meet an imminent deadline imposed by state statute, namely SB 191. SB 191, signed by the Governor on April 24, 2020, and effective on March 1, 2021, amends KRS 309.080 to 309.089 to create two (2) additional credentials for drug and alcohol counseling. These credentials are administered and enforced by the Kentucky Board of Alcohol and Drug Counselors ("Board"). Among other things, KRS 309.0813, as amended by SB 191, requires the Board to promulgate administrative regulations to administer and enforce the new credentials. This statutory change required the amendment of nine (9) regulations and nineteen (19) forms. The Board has been diligently working on these regulatory amendments and forms, since the passage of SB 191. This emergency amendment will allow the Board to certify applicants for the two (2) new credentials created by SB 191 and regulate them in compliance with the statute effective March 1, 2021. An ordinary administrative regulation is not sufficient, because of the imminent effective date of SB 191. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency regulation.

TIM CESARIO, Chair
ANDY BESHEAR, Governor

BOARDS AND COMMISSIONS

Board of Alcohol and Drug Counselors

(Emergency Amendment)

201 KAR 35:025E. Examinations.

EFFECTIVE: March 5, 2021

RELATES TO: KRS 309.083(5), 309.0831(5), 309.0832(4), 309.0833

STATUTORY AUTHORITY: KRS 309.0813(1), (4), (5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.0813(4) requires the board to promulgate an administrative regulation governing the administration and grading of the written examination, which applicants are required to successfully complete. This administrative regulation establishes those examination requirements.

Section 1. Comprehensive Examination. (1) An applicant for registration as an alcohol and drug peer support specialist shall take the comprehensive examination offered by the International Certification and Reciprocity Consortium.

(2) An applicant for certification as a certified alcohol and drug counselor shall take the comprehensive examination offered by the International Certification and Reciprocity Consortium.

(3) An applicant for licensure shall take the comprehensive examination offered by the International Certification and Reciprocity Consortium.

Section 2. Remediation Plan. (1) If an applicant fails the examination, the applicant shall:

(a) Not retake the examination within ninety (90) days of the failed examination date;

(b) Submit a KBADC Form 19, Re-Examination Application; and
(c) Submit the examination fee for the respective examination listed in 201 KAR 35:020, Section 2.

(2) If the applicant fails the examination twice or more, the applicant shall submit a remediation plan after each failed examination:

(a) To address the deficiencies cited in the examination results; and

(b) Cosigned by the board-approved supervisor.

(3) Upon completion of the remediation plan approved by the board, the applicant may request permission to retake the examination by filing a KBADC Form 19, Re-Examination Application, and submitting the examination fee for the respective examination listed in 201 KAR 35:020, Section 2.

Section 3. Incorporation by Reference. (1) "KBADC Form 19, Re-Examination Application", December 2015, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Alcohol and Drug Counselors, 500 Mero St, 2 SC 32[911 Leawood Drive], Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m. The board's Web site address is: <https://adc.ky.gov>.

TIM CESARIO, Chair

APPROVED BY AGENCY: February 25, 2021

FILED WITH LRC: March 5, 2021 at 4:27 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 9:00 AM on April 26, 2021 at 500 Mero Street, 127CW, Frankfort, Kentucky 40601. In the event the building is not open to the public on April 26, 2021, including if the declared State of Emergency in Executive Order 2020-215 and the State of Emergency Relating to Social Distancing in Executive Order 2020-243 are not rescinded by April 26, 2021, this hearing will be held by video teleconference, in which event members of the public wishing to attend may utilize the following link: Join from PC, Mac, Linux, iOS or Android:

<https://us02web.zoom.us/j/83379565231?pwd=VUF1MThJYTZnbmNA1WmxMZEt0RCtyZz09>, Password: 930689, Or Telephone: Dial: USA 713 353 0212, USA 8888227517 (US Toll Free), Conference code: 995892. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 PM on April 30, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Kevin R. Winstead, Commissioner, Department of Professional Licensing, 500 Mero Street, 237CW, Frankfort, Kentucky 40601, phone (502) 782-0562, fax (502) 564-4818, email KevinR.Winstead@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kevin R. Winstead

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the comprehensive examination requirement for each applicant and the process that an applicant must satisfy if the applicant fails the examination.

(b) The necessity of this administrative regulation: The necessity of this regulation is to establish the procedure for the examination and the process that an applicant must satisfy if the applicant fails the examination.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute gives the board the ability to promulgate regulations regarding the establishment of examinations.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the comprehensive examination requirement for each applicant and the process that an applicant must satisfy if the applicant fails the examination.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment will change the existing administrative regulation by clarifying that applicants for certification as a certified alcohol and drug counselor are required to take an examination and no other applicants for certification. The amendment also updates the board's address.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary because two new credentials for certification were created by the General Assembly that does not require an applicant to take a comprehensive examination. This amendment clarifies that only applicants for certification as a certified alcohol and drug counselor are required to take a comprehensive examination.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statute, KRS 309.0813(4). The authorizing statute gives the board the ability to promulgate regulations regarding the establishment of examinations.

(d) How the amendment will assist in the effective administration of the statutes: The amendment assist in the effective administration of the statutes by clarifying that only applicants for certification as a certified alcohol and drug counselor are required to take an examination.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The board is unable to determine the exact number of persons who would be impacted by this regulation since the applications vary from month to month. Future applicants and persons credentialed by the board will be affected by this administrative regulation. As of February 1, 2021 there were 513 licensed clinical alcohol and drug counselors, 21 licensed clinical alcohol and drug counselor associates, 458 certified alcohol and drug counselors, 930 temporary certified alcohol and drug counselors, 95 temporary registered alcohol and drug peer support specialists, and 15 registered alcohol and drug peer support specialists.

(4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: An applicant for certification as a certified alcohol and drug counselor must take the comprehensive examination offered by the International Certification and Reciprocity Consortium.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: An applicant for certification as a certified alcohol and drug counselor must pay a fee to take the comprehensive examination offered by the International Certification and Reciprocity Consortium.

(c) As a result of compliance, what benefits will accrue to the entities: As a result of compliance, an applicant has the opportunity to successfully pass the required examination.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: Initially, there is no additional cost to the administrative body to implement this administrative regulation.

(b) On a continuing basis: On a continuing basis, there is no additional cost to the administrative body to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operations are funded by fees paid by credential holders and applicants.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There will be no increase in fees or funding to implement the amendment.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish new fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering was not applied. This regulation does not distinguish between similarly situated individuals on the basis of any factor.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Kentucky Board of Alcohol and Drug Counselors.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 309.0813(1) (effective March 1, 2021) requires the board to promulgate administrative regulations pursuant to KRS Chapter 13A for the administration and enforcement of KRS 309.080 to 309.089. KRS 309.0813(4) (effective March 1, 2021) requires the board to approve the examination required of applicants for licensure or certification as alcohol and drug counselors and applicants for registration as alcohol and drug peer support specialists, and promulgate administrative regulations pursuant to KRS Chapter 13A for the administration and grading of the examination. KRS 309.0813(5) (effective March 1, 2021) requires the board to promulgate administrative regulations pursuant to KRS Chapter 13A to define the process to register with the board as a registered alcohol and drug peer support specialist, certified alcohol and drug counselor, licensed clinical alcohol and drug counselor associate, or licensed clinical alcohol and drug counselor.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This regulation will not generate revenue for state or local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This regulation will not generate revenue for state or local government.

(c) How much will it cost to administer this program for the first year? There will be no additional cost to administer this program.

(d) How much will it cost to administer this program for subsequent years? There will be no additional cost to administer this program.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation: None